



Thanet District Council - Standard Clauses

The following Standard Clauses shall form part of Thanet District Council's contracts for goods/works/services. If there is conflict or inconsistency between any of the provisions of these Standard Clauses and the provisions of other contract documents, the provisions of said Standard Clauses shall prevail.

1. ANTI-CORRUPTION AND BRIBERY

The Employer may cancel the Contract and recover from the Contractor the amount of any loss resulting from such cancellation if the Contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other contract with the Employer or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Employer or if the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the Contractor) or if in relation to any contract with the Employer the Contractor or any person employed by it or acting on its behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972

The Employer's information pages on Fraud and Corruption and Anti-Fraud and Corruption Policies can be viewed at <https://www.thanet.gov.uk/info-pages/fraud-and-corruption/>

2. PREVENTION OF ASSIGNMENT

The Contractor shall be prohibited from transferring assigning sub-letting or sub-contracting, directly or indirectly, to any person or persons whatever, the whole or any portion of the Contract without the prior written permission of the Employer. No sub-contracting shall relieve the Contractor from the obligations of the Contract or from the obligation to actively supervise the works/services during their progress. All actions taken by an approved sub-contractor in connection with the carrying out of any work under the Contract will be deemed to be the actions of the Contractor as defined in this Contract.

The Employer may assign or otherwise transfer this Contract or the benefit thereof at any time without the consent of the Contractor.

3. COMPLIANCE WITH STATUTES: HEALTH AND SAFETY, EQUAL OPPORTUNITIES AND NATIONAL MINIMUM/LIVING WAGE

The Contractor will perform and procure the performance of its obligations under this Contract in compliance with all laws of England and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes in force from time to time and which apply to the provision of goods, works and/or services under this Contract ('Applicable Laws').

In particular (but without prejudice to the generality of the foregoing) the Contractor shall comply in all respects with the provisions of all Applicable Laws relating to:

- Health and safety issues relevant or applicable to the goods, works and/or services to be provided to the Employer hereunder and shall bear the penalty for any contravention of the standard provisions relating to health and safety;
- Equal opportunities. In particular, the Employer requires the Contractor to be committed to a policy of treating all its employees and job applicants equally. No employee or potential employee shall receive less favourable treatment or consideration on the grounds of race colour religion or belief nationality ethnic or national origins sexual orientation gender re-assignment age disability marital status or part-time status or be disadvantaged by any conditions or employment that cannot be justified as reasonably necessary on operational grounds; and
- National Minimum Wage (including National Living Wage). In particular, the Employer requires the Contractor to observe and comply with the provisions of the National Minimum Wage Act 1998, National Minimum Wage Regulations 2015 (SI 2015/621) and National Minimum Wage (Amendment) Regulations 2016 (SI 2016/68) (as amended, extended or re-enacted from time to time), including all employer obligations imposed thereunder.

The Employer's Equality and Diversity Policy Statement and the Equality Policy can be viewed at: <https://www.thanet.gov.uk/info-pages/equality-and-diversity-policy-statement/>

4. FREEDOM OF INFORMATION

For the purposes of this Clause

"FOI Legislation" means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

"Information" has the meaning given under Section 84 of the Freedom Of Information Act 2000

"Information Request" means a request for any Information under the FOI Legislation.

The Contractor acknowledges that the Employer:

- * is subject to the FOI Legislation and agrees to assist and co-operate with the Employer (at the Contractor's expense) to enable the Employer to comply with its obligations under the FOI Legislation; and
- * may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Contractor.

Without prejudice to the generality of the foregoing, the Contractor shall and shall procure that its sub-contractors (if any) shall:

- * transfer to the Employer's authorised officer (or such other person as may be notified by the Employer to the Contractor) each Information Request relevant to the Contract that it or they (as the case may be) receive as soon as practicable and in any event within two working days of receiving such Information Request; and
- * in relation to Information held by the Contractor or in its possession or power, provide the Employer with details about and/or copies of all such Information that the Employer requests and such details and/or copies shall be provided within five working days of a request from the Employer (or such other period as the Employer may reasonably specify), and in such forms as the Employer may reasonably specify.

The Employer shall be responsible for determining at its absolute discretion whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. In no event shall the Contractor respond directly to an Information Request unless expressly authorised to do so by the Employer.

The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Employer to inspect such records as requested from time to time.

5. PROMPT PAYMENT OF INVOICES

5.1 Where the Contractor submits an invoice to the Employer for the supply of goods, services and/or works as appropriate the Employer will consider and verify that invoice in a timely fashion.

5.2 The Employer shall pay the Contractor any sums due under such invoice no later than a period of 30 days from the date on which the Employer has determined that the invoice is valid and undisputed.

5.3 Where the Employer fails to comply with sub-clause 1 above and there is undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of sub-clause 2 above after reasonable time has passed.

5.4 Where the Contractor enters into a sub-contract, the Contractor shall include in that sub-contract:

- a) provisions having the same effect as sub-clauses 1 – 3 of this clause; and
- b) a provision requiring the counterparty to that sub-contract to include within any sub-contract which it awards provisions having the same effect as sub-clauses 1 – 4 of this clause.

5.5 In sub-clause 4, “sub-contract” means a contract between two or more suppliers, at any stage of remoteness from the Employer in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

6. CONFLICT OF INTEREST

6.1 The Contractor shall ensure that there is no conflict of interest as to be likely to prejudice its independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) it shall immediately notify the Employer in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the Employer may reasonably require.

6.2 Where the Employer is of the opinion that the conflict of interest notified to it under Clause 6.1 above is capable of being avoided or removed, the Employer may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:

6.2.1 if the Contractor fails to comply with the Employer’s requirements in this respect; or

6.2.2 if, in the opinion of the Employer, compliance does not avoid or remove the conflict, the Employer may determine the Contract and recover from the Contractor the amount of any loss resulting from such determination.

6.3 Where the Employer is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as required by the tender documents pertaining to it, the Employer may determine the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such determination.

6.4 In the event that the Contractor enters into any sub-contract in connection with this Contract it shall impose obligations on its sub-contractors in terms substantially similar to those imposed on it pursuant to the preceding sub-clauses and shall provide evidence of its compliance to the Employer upon written request.

7. CHILD PROTECTION AND SAFEGUARDING GENERALLY

The Contractor shall comply with the terms of the Employer’s Safeguarding Policy current from time to time (including any associated procedures) and shall cause its employees and sub-contractors to do likewise throughout the duration of the Contract. A copy of the Employer’s current Safeguarding Policy may be viewed at: <https://www.thanet.gov.uk/info-pages/safeguarding-policy/>, which includes (without limitation) requirements for the Contractor:

- (where the Contractor is engaged by the Employer under a contract in the performance of which the Contractor, its employees or sub-contractors are likely to come into contact with children, young adults or vulnerable people) to undertake DBS checks of employees and others, as appropriate; and
- to ensure timely reporting of any Safeguarding discrepancies or concerns to the Employer's designated safeguarding officers.

8. PERFORMANCE DATA SHARING

8.1 Throughout the Contract term (including any extended period(s)) the Contractor shall have and maintain procedures in place to ensure that any performance data it provides to the Employer is accurate and reliable and shall ensure that said procedures include validation checks where appropriate.

8.2 The Contractor hereby agrees to provide performance data to the Employer within timescales as required by the Employer and acknowledges that the Employer may from time to time require it to assist auditors and/or performance officers in the review of the systems and processes used by the Contractor in the production of performance data to the Employer.

9. DATA PROTECTION

9.1 Each party shall, at its own expense, ensure that it complies with and assists the other party to comply with the requirements of all legislation and regulatory requirements in force from time to time relating to use of personal data including, without limitation, (i) the Data Protection Act 2018, until the effective date of its repeal (ii) the General Data Protection Regulation (EU 2016/679) (GDPR) and any national implementing laws, regulations and secondary legislation, for so long as the GDPR is effective in the UK, and (iii) any successor legislation to the Data Protection Act 2018 and the GDPR.

NOTE THAT where the Contract requires processing and/or control of personal data, additional data protection clauses shall be included appropriate to the nature of the Contract

10. TUPE AND EMPLOYMENT MATTERS

TUPE Regulations apply by law to certain service and works contracts.

NOTE THAT where the Contract may involve TUPE obligations, additional TUPE clause(s) shall be included appropriate to the nature of the obligations.